(3) (1)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, CHHATTISGARH

W.P. No. 247 OF 2002

PETITIONER

Smt. Rani Bai, wife of Shri Shiv Kumar Dhritlahare, aged about 30 years Up Sarpanch, Gram Panchayat, Lalpur, resident of Lalpur, Tehsil Lormi, Distirct Bilaspur

VERSUS

RESPONDENTS

1. State of Chhattisgarh through Addl. Collector, Bilaspur, Tehsil & District Bilaspur
2. Commissioner, Bilaspur Division, Bilaspur (Chhattisgarh)
3. Sub Divisional Officer, Lormi, Distt. Bilaspur (Chhattisgarh)
4. Smt. Parvati Bai, wife Radhelal, aged about 35 years, Sarpanch (removed), Gram Panchayat Lalpur, Tehsil Lormi, District Bilaspur (Chattisgarh)
5. Shri Dhhal Singh, S/o Shri Darshan Singh, aged about 35 years, resident of Lalpur, Tehsil Lormi, District Bilaspur (Chhattisgarh)

P.R. No. 251/02
Presented by Shri Sanjay Khare Adv.
dated 29.11.02

सम्भाग आयुक्त बिलासपुर तहसील कार्यालय 29/11/02

WRIT PETITION UNDER SECTION 226/227 OF THE CONSTITUTION OF INDIA

(53) A.F.R

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION NO.247/2002

Smt. Rani Bai

Vs.

State of Chhattisgarh and others

For the petitioner:	Shri Rajeev Shrivastava, Adv.
For respondents 1 to 3:	Shri Sanjay K. Agrawal, Dy.A.G.
For respondents 4 & 5:	Shri P.S.Chandel, with Shri Rakesh Antoni

Present: Hon'ble Mr. Justice Fakhruddin

O R D E R

(1.5.2002)

By this writ petition filed under Article 226/227 of the Constitution of India, petitioner is challenging the order dated 18.1.2002 passed by respondent no.2 whereby it has been directed to stay the order passed against respondent Nos.4 & 5 from the post of Sarpanch, Lalpur Gram Panchayat till decision of appeal preferred by respondents no.4 and 5.

(2) Briefly stated facts are that respondent no.4 was an elected Sarpanch, Lalpur and on a complaint made by the

present petitioner who is Up-Sarpanch of the said Grampanchayat and others, respondent no.3, the Sub-Divisional Officer, Lormi, Distt. Bilaspur started an enquiry against respondents no.4 and 5 and in exercise of its powers vested u/s 40 of M.P. Panchayat Raj Adhiniyam 1993 removed respondent 4and 5 by passing an ex parte order dated 28.12.2001 (Annexure P-1). Against this order, respondent no.4 preferred appeal and the Collector while admitting the appeal has rejected the application for staying the impugned order vide his order dated 02.01.2002 (Annexure P-2). Being aggrieved by the order dated 02.01.2002 passed by the Collector (Annexure P-2), respondents 4 & 5 filed revision and the Commissioner/Respondent No.2 by ex parte order dated 18.1.2002 (Annexure P-4) set aside the order passed by the Collector and stayed the effect and operation of the impugned order passed by the Appellate Authority (Annexure P-2) and that of the Sub-Divisional Officer (Annexure P-1).

(3) The present petitioner has filed this petition against the order dated 18.1.2002 (Annexure P-4) passed by the Commissioner claiming the following reliefs:

"7.1. That this Hon'ble Court may kindly be pleased to call for the entire records of the case leading to the passing of the impugned order (Annexure P-4 dated 18.1.2002.

7.2 That this Hon'ble Court may kindly be pleased to issue a writ of certiorari quashing order Annexure P-4 passed by the Commissioner, Bilaspur and declare the same as inoperative.

7.3 Issue any other writ, direction or order in favour of the petitioner which may be found appropriate under the facts and circumstances of the case."

(4) This Court vide order dated 30.01.2001 directed issuance of notice and granted interim stay on 06.2.2002. Respondents No.4 & 5 have filed reply thereto. Application (I.A.No.84/2002) for vacating interim stay has been filed. Hearing on I.A.No.84/2002 as well as the petition will take time; therefore, with the consent of the parties, the matter has been heard finally on different dates.

(5) The matter regarding removal of Sarpanch/member or any office bearer of the Gram Panch is provided in Section 40 of the M.P. Panchayat Raj Adhiniyam Act, 1993. The same is relevant here and quoted below.

"Sec.40 Removal of Office bearers of Panchayat, - (1) The State Government or the prescribed authority may after such enquiry as it may deem fit to make at any time, remove an office bearer—

(a) If he has been guilty of misconduct in the discharge of his duties; or

(b) If his continuance in office is undesirable in the interest of the public:

Provided that no person shall be removed unless he has been given an opportunity to show cause why he should not be removed from his office.

Explanation: For the purpose of this sub-section 'misconduct' shall include—

(a) any action adversely affecting—

(i) the sovereignty, unit and integrity of India: or

(ii) the harmony and the spirit of common brotherhood amongst all the people of State transcending religious, linguistic, regional, caste or sectional diversities: or

(iii) the dignity of women: or

(b) gross negligence in the discharge of the duties under this Act.

(c) The use of position or influence directly or indirectly to secure employment for any relative in the Panchayat or any action for extending any pecuniary benefits to any relative, such as giving out any type of lease, getting any work done through them in the Panchayat by an office bearer of Panchayat.

Explanation,- For the purpose of this clause the expression 'relative' shall mean father, mother, brother, sister, husband, wife, son, daughter, mother-in-law, father-in-law, sister-in-law, son-in-law or daughter-in-law;

Provided that the final order in the inquiry shall as far as possible be passed within 90 days from the date of issue of show cause notice to the concerned office bearer.

(2) A person who has been removed under sub-section (l) shall forthwith cease to be a member of any other Panchayat of which he is a member, such person shall also be disqualified for a period of six years to be elected under this Act."

(6) On complaint made by the petitioner, enquiry was made by C.E.O. Janpad Panchayat, Lormi. On the basis of this report, show cause notices were issued to the respondents 4 & 5. It is not disputed that in the show cause notice, which

is said to be received by respondents on 26.12.2001, the date of appearance was given to them as 28.12.2001. According to the order Annexure P-1 passed by the Sub-Divisional Officer, respondents no.3 and 4 did not appear on 28.12.2001 and that day itself the Sub-Divisional Officer, herein respondent no.3, proceeded ex-parte and passed the order (Annexure P-1). Consequent to the said order, respondents no.4 and 5 not only stand removed from their office, but they shall also stand disqualified for a period of six years as contemplated under sub-section (2) of section 40 of the Act 1993. In this connection, it is apt to reproduce the relevant paragraphs 2 & 3 of the order (Annexure P-1) passed by Sub-Divisional Officer, respondent no.3 herein, which reads as under:

"(2) प्राप्त शिकायत जॉच मुख्य कार्यपालन अधिकरीजनपत पंचायत लोरमी द्धारा करायी गयी। उनसे प्राप्त प्रतिवेदन के आधर पर सरपंच एवं सचिव को कारण बताओ नोटिस जारी किया गया। सरपंच एवं सचिव कारण बताओ नोटिस प्राप्त करनें के बाद भी न्यायालय में अनुपस्थित रहें । अतएव उनके विरुद्ध स्वपक्षीय कार्यवाही जारी रखनें का आदेश दिया गया।

(4) उपरोक्त विवेचना से मैं इस निष्कर्ष पर पहुचता हूँ कि आरोपी सरपंच श्रीमती पार्वती बाई एंव श्री ढालसिंह पचायत कर्मी/सचिव दोनो के

द्वारा आपसी मिलिभगत से पंचायत राशि का गबन कर प्रभक्षण किया गया है। अतएव मै अनुविभागीय अधिकारी लोरमी म.प्र. पंचायत राज्य अधिनियम 1993 की धरा 40 के अंतर्गत प्रदत्त शक्तियो का उपयोग करते हुए श्रीमती पार्वती बाई को सरपंच लालपुर (थाना) से तथा श्री ढालसिंह को पंचायत कर्मा के पद से पदच्युत करता हूँ।

उपरोक्तानुसार आदेश पारित।"

सही/-
अनुविभागीय अधिकारी, लोरमी

(7) Against the order (Annexure P-1), respondents no.4 and 5 preferred appeal under the provisions of M.P. Panchayats (Appeal and Revision) Rules 1995 and the appellate authority had admitted the appeal and noted the contention of respondents that the Sub-Divisional Officer has issued show cause notice for appearance on 28.12.2001 and when they reached on 28.12.2001 at 2.00 p.m. they came to know that respondent no.3 had proceeded ex-parte and respondents no.4 and 5 were not provided with opportunity of hearing or to submit reply thereto and the order of removal has been passed. They also prayed for stay of the order passed by Sub-Divisional Officer. Respondents no.4 & 5 before the appellate

authority contended that the allegations made in the show cause notice are incorrect and they are not related with those allegations warranting removal from their offices. Learned Additional Collector had noted all those contentions, but after hearing counsel for respondents no.4 and 5 opined in the last paragraph of his order that in the arguments advanced by them, no specific fact and legal error have been pointed out justifying the grant of stay. Thus the learned Additional Collector while admitting the appeal has rejected the application for stay. Record was also called for and date was given 11.2.2002 for further hearing. Being aggrieved by the said order dated 02.1.2002 (Annexure P-2), respondents no.4 and 5 preferred revision under the M.P. Panchayat (Appeal and Revision) Rules 1995 and the Commissioner, Bilaspur Division, herein respondent no.2, after hearing counsel for the respondents no.4 and 5 and noting that the Collector while admitting the appeal, rejected the application for grant of stay, had granted stay of the impugned order of the appellate authority and that of respondent no.3 Sub-Divisional Officer and further directed that the order Annexure P-4 shall continue till disposal of the appeal and as the appeal is pending before the Collector, he closed the case

and consigned the revisional record to the record room. Paragraph 2 of the order-dated 18.1.2002 is relevant here and quoted below.

> पुनरीक्षण आवेदन का अवलोकन करने एवं स्थगन के बिंदू पर आवेदकगण के अधिवक्ता को सुनने के बाद अतिरिक्त कलेक्टर, बिलासपुर द्वारा सुनवाई हेतु ग्राह्य अपील प्रकरण मे दिये गए स्थगन निरस्तीकरण आदेश को समाप्त किया जाता है। न्यायालय अपर कलेक्टर बिलासपुर के समक्ष अपील प्रकरण के निराकरण तक अनुविभागीय अधिकारी बिलासपुर के आदेश के कियान्वयन पर रोक लगाई जाती है। प्रकरण अधीनस्थ न्यायालय मे प्रचलन योग्य होने से समाप्त किया जाता है । प्रकरण दर्ज होने उपरान्त दाखिल रिकार्ड हो।

सही/--अस्पष्ट
अपर आयुक्त
बिलासपुर संभाग

Sd/-

(8) Learned counsel for the petitioner who is the complainant himself and at whose behest the proceedings were initiated, contends that the order of Commissioner/ respondent no.2, is illegal and contrary to law. He further contends that the learned commissioner granted ex-parte order staying the operation of impugned orders passed by the appellate authority and the Sub-Divisional Officer and directed that his order Annexure P-4 shall continue till decision of the appeal and closed the revision case and consigned the record to the record room. Learned counsel for respondents no.4 and 5, on the other hand, supported the order of commissioner.

(9) So far as the order of Additional Collector is concerned, counsel for respondents no.4 and 5 referred to provisions of Section 5 of the M.P. Panchayat (Appeal and Revision) Rules, 1995. In this regard, Section 5 of the Rules 1995 is relevant here which reads as under:

> "5. **Revision.-** (1)(a) The State Government, the Commissioner, the Director of Panchayat, the Collector may on its/his own motion or on the application by any party, at any time for the purpose of satisfying itself/himself as to the legality or propriety of any order

passed by or as to the regularity of the proceeding of, the authority subordinate to it/him call for and examine the record of any case pending before, or disposed of by, such authority and may pass such order in reference thereto as it/he may think fit:

Provided that it/he shall not vary or reverse any order unless notice has been served on the parties interested and opportunity given to them for being heard:

Provided further that no application for revision shall be entertained against an order appellable under the Act.

(b) An application for revision by any party shall only be entertained if it is on the point of law and not on facts.

(2) Notwithstanding anything contained in sub-rule (1),—

(i) Where proceedings in respect of any case have been commenced by the State Government under sub-rule(1) no action shall be taken by other officer mentioned in the said sub-rule in respect thereof, and

(ii) Where proceedings in respect of any such case have been

commenced by the Officer mentioned in sub-rule(1), the State Government may either refrain from taking any action under this rule in respect of such case until the final disposal of such proceeding by such officer or may withdraw such proceeding and pass such order as it may deem fit.

A plain reading of Rule 5 shows that clause (1)(a) of this rule stipulates that the revisional authority shall not vary or reverse any order unless notices have been served on the parties interested and opportunity given to them for being heard:

(10) So far as the order of Commissioner (Annexure P-4) is concerned, it is manifestly clear that neither notice of this revision nor the application for stay were issued to the other side nor they were given any opportunity of hearing and the Additional Commissioner not only passed the order staying the order of Collector till decision of appeal, but closed the case and consigned the revisional record to the record room. This could not have been done in view of specific provision

contained in the Rule. The powers conferred on appellate/revisional authority is to be exercised in the manner in which it is required to be exercised, especially when finally order is being passed. It is open to the revisional authority to pass interim order after notice is served on the other side and opportunity given to them for being heard. In the present case, that having not been done, the order of Commissioner deserves to be set aside and is hereby set aside.

(11) Counsel for the respondents No.4 and 5 submits that the order passed by the Sub-Divisional Officer is a matter of appeal before the additional Collector which itself is vitiated. Inasmuch as, by ex-parte order respondents no.4 and 5 have been removed illegally without affording any opportunity. It is pointed out that the order passed by respondent no.3 (Annexure P-1) is also under challenge before this Court and one of the reliefs thereof is sought to quash Annexure P-1 in this writ petition. Though it is mentioned that the relief was granted by the Commissioner, but it is pointed out that the order (Annexure P-1) is the order passed by the Sub-Divisional Officer. It is contended by learned counsel for

respondents no.4 and 5 that so far as the order of Sub-Divisional Officer is concerned, that has been passed in hot haste without affording any opportunity of hearing. It is submitted that section 40 which has been conferred power regarding removal of office bearers of Panchayat contemplates the enquiry to be made by the State Government or the prescribed authority. It is submitted that admittedly show cause notice was given, but the date of appearance was given 28.12.2001 and on the said date itself, the Court proceeded exparte and passed the order of removal. It is contended that the power of removal is, having regard to these consequences, quasi judicial in nature and such functions are quasi-judicial functions. More so because, on such an order the person would not only get punishment of removal, but would face disqualification for a period of six years to be elected and the finding of misconduct on which such an order is based casts stigma on public life of the person. This power is, therefore, conferred on the State Government or the prescribed authority and is to be exercised after such an enquiry as it deems fit on the grounds that (a) if he has been guilty of misconduct in the discharge of his duties; or (b) if his continuance in office is undesirable in the

interest of the public. Certain proviso is added thereto that no person shall be removed unless he has been given an opportunity to show cause why he should not be removed from his office. Explanation to section 40 defines misconduct by amending Act 43 of 1997 which has been made available w.e.f 15.12.1997 from State of Madhya Pradesh and which is also applicable to the State of Chhattisgarh unless otherwise changed. Further proviso to this section is that final order shall be passed as far as possible within 90 days from the date of issue of show cause notice to the concerned officer bearer.

(12) The date of issue of show cause notice has not been shown in the order, but nevertheless it is an admitted position that the date of appearance was given as 28.12.2002. In the opinion of this Court, where an authority has issued notice to show cause and given a specific date, then the reasonableness which required, in the facts and circumstances of the case where removal of Sarpanch with a further disqualification for six years, is to follow. This opportunity should be such that a person is able to defend and explain the said case. That authority has not to act

arbitrarily. Reasonable opportunity is to be given. Here in the present case, the time given to appear and submit reply was up to 28.12.2001. In fact, the typed copy of the order was such that that it may be 26.12.2001, but as apparent from the order of Collector is 28.12.2001. Even if it is 28.12.2001, then the prudence requires that the order ought not to have been passed on that day itself especially, when by an Act of Amendment, period of 90 days is given from the date of issue of show cause notice. The enquiry is to be completed as far as possible and the final order be passed within 90 days from the date of issue of show cause notice to the concerned officer bearer. The period was still available. It is submitted by respondents no.4 and 5 that they have received notice on 26.12.2001 for appearance on 28.12.2002. If the notice was received on 26.12.2001 and the date of appearance stated therein was 28.12.2001, the passing of the order on 28.12.2001 itself is not sustainable. M.P. Panchayats Act (7 of 1962) contains similar clause of section 116 (2) regarding removal of an office bearer. The order of removal affects the valuable right of a person holding office as member or Sarpanch to continue in the office until expiry of the term and the finding of misconduct on which such an

order is based castes stigma on the public life of a person as he is disqualified. In view of the consequences flowing from the record, the power of removal has been held to be quasi judicial in nature.

(13) A Division Bench of High Court of M.P. in case of *Bansamani Prasad Veerbhadra Shukla -v- State of M.P. and others* reported in M.P.L.J. Vol.25 1980 held as under:

> "It cannot be disputed that opportunity to show cause must be real opportunity. The person proceeded against must not only be told the allegations of misconduct, but he must also be informed of the material which is sought to be used against him in support of the charges so that he may offer his explanation in respect of that material. A person who holds office as a member or as President has a right to continue in the office until the expiry of the term. The order of removal, which is passed under section 116, affects this valuable right and the finding of misconduct on which such an order is based casts a stigma on the public life of the person. Having regard to these consequences, we are of opinion that the power of removal is quasi-judicial in nature. In Bhagat Ram Vs. State of Punjab, AIR 1972 SC 1571, a provision in the Punjab Municipal Act relating to the removal of members was considered by the Supreme Court. It was

held in that case that the order contemplated by the provision removing a member was quasi-judicial in nature and that it was not only desirable but also essential that the authority passing the order should give reasons. It was further pointed out that all the material should be disclosed to the person concerned so that he may give an effective answer not only to the averments contained in the show cause notice, but also to the principles laid down in Bhagat Ram –vs- State of Punjab (supra)".

(14) In view of the above decision, learned counsel for respondents no.4 and 5 submits that the Sub-Divisional Officer ought not to have passed an order on the very same day and there is a provision which in fact requires an opportunity and the order passed by respondent no.3 is illegal and contrary to law.

(15) Learned counsel for respondents nos. 4 and 5 further submits that the order passed by respondent no.3 is illegal and contrary to law as opportunity of hearing is not given to them. Reliance has been placed in this connection on a decision of the High Court of M.P. in case of *Nirmal Singh Sahu –vs- State of M.P.* reported in 1999(2) MPWN S.N. 201 wherein it has been held that the order of removal from the

post of Sarpanch without hearing is not sustainable. Further reliance has been placed in the case of *Kailash Kumar Danghi –v- State of M.P. and others* reported in 2000(1) M.P.H.T. 143 wherein it has been held that "inquiry provided in section 40 of the M.P. Panchayat Raj Adhiniyam, 1993 for removal of an office bearer has to be an inquiry to be held in conformity with the principles of natural justice."

(13) It is pertinent to note that the High Court of Madhya Pradesh while interpreting the provisions regarding *Primary Co-operative Stores Ltd., Satna –v- State of M.P. and others* reported in 1985 RN 269 held as under:

> "The question in the case was the opportunity afforded would be the 'reasonable opportunity' within the meaning of the terms under Section 53(2) of M.P. Co-operative Societies Act, 1960? These two words are said to be incorporating principles of natural justice. Principles of natural justice are not contained in any straightjacket formula and have been interpreted differently in the context of different facts and circumstances. It however appears to be clear that whenever an action involving civil consequences is required to be taken against a person, he must be given a reasonable opportunity of showing cause against the action. This opportunity may include

informing him of the material which is to be used against him.

Unless the opportunity as aforesaid has been given, it will be difficult to hold that the person affected by the order had a reasonable opportunity of showing cause against the proposed action."

(Emphasis supplied)

(16) It is manifestly clear that the Sub-Divisional Officer issued notice for appearance on 28.12.2001 and the show cause notice was said to be received on 26.12.2001 and when they appeared on 28.12.2001, they came to know that on the same day, respondent no.3 proceeded ex-parte and order has been passed. Such an order on that day itself could not be passed mechanically in hot haste. The prudence requires that full time upto 5 p.m. be given and if the hearing is not completed by 5 p.m. then it may be taken up on the next day. It is to be in accordance with the provisions and to that effect, the Division Bench of High Court of M.P. expressed the consistent view that such orders are quasi-judicial orders. While considering the case of removal of an office bearer, the Supreme Court in Bhagat Ram –v- State of

Punjab (supra) which is similar to the present case, held that the order contemplated by the provision removing a member was quasi-judicial in nature and that was not only desirable, but also essential that the authority passing the order should give reasons. It was further pointed out that all the material should be disclosed to the person concerned so that he may give an effective answer not only to the averments contained in the show cause notice, but also to the materials on the basis of which show cause notice was issued. In view of the position of law declared by Hon'ble the Supreme Court in the case of Bhagatram –v- State of Punjab (supra), the said principles have been held applicable by the Division Bench of M.P. High Court in case of Bandsman Parsad Veerbhadra Shukla –v- State of M.P. (Supra) u/s 116 of M.P. Panchayats Act 1962.

(17) Shri Gautam Bhaduri, counsel for the State has also equally submitted that it is just and proper that the order passed by Sub-Divisional Officer herein respondent no.3 is set aside, as the same is not sustainable in accordance with law.

(18) Counsel for the petitioner /complainant, in view of the facts and circumstances and the legal position which have emerged, fairly submitted that the implications arising out of section 40 is such that requirement of hearing is contemplated and the proceedings are quasi-judicial in nature, as such he has prayed that the order of Sub-Divisional Officer may be set aside.

(19) Counsel for respondents 4 and 5, so also the petitioner and the State submitted that in view of the special facts and circumstances which have emerged from record, it is manifestly clear that the Sub-Divisional Officer passed the order on 28.12.2001 itself and in view of the decisions of the High Court of Madhya Pradesh rendered in cases of Bansamani Parsed Veerbhadra Shukla –v- State of M.P (supra); Nirmal Singh sahu and State of M.P. reported in 1999(2) MPWN S.N. 201(supra); Kailash Kumar Danghi –v- State of M.P. and others reported in 2000(1) MPHT 143(supra); Primary Co-operative Stores Ltd., Satna –v- State of M.P. and others reported in 1985 RN 269, the order of Sub-Divisional Officer deserves to be set aside, as the opportunity of hearing has not been given.

(20) This Court is of the considered opinion that under the facts and circumstances of the present case it is writ large and could not be disputed that opportunity has not at all been afforded by Sub-Divisional Officer and non compliance of section 40 of M.P. Panchayat Raj Adhiniyam is there. The authority has acted in most arbitrarily and disregard to the principle of natural justice. Normally this court would not have interfered in the impugned order of Sub-Divisional Officer, but in view of the facts which have emerged, violation of statute and principle of natural justice are apparent on the face of the record and prayer has also been made by counsel for the parties including respondents no.4 and 5 that the matter be remitted to the Sub-Divisional Officer, in the opinion of this Court, this Court has jurisdiction to grant relief under Article 226 of the Constitution of India in appropriate case. The existence of alternative remedy is not an absolute bar to the relief. It is one of the circumstances which the Court has to take into consideration while exercising its discretionary power under Article 226. Alternative remedy does not take away the jurisdiction of the Court to grant relief in exceptional circumstances. Consequently, the order passed by the Commissioner dated

18.1.2002 Annexure P-4 in favour of respondents 4 and 5 is set aside, so also the order passed by the Collector Annexure P-2 and that of Sub-Divisional Officer (Annexure P-1) are set aside. The matter is remitted to the competent authority i.e. the Sub-Divisional Officer to decide in accordance with law as early as possible preferably within 2 months from the date of their appearance. Counsel for the Petitioner so also respondents no.4 and 5 submit that a fixed date may be granted for their appearance before respondent no.3. Accordingly, the petitioner as also respondents no.4 and 5 are directed to appear before the Sub-Divisional Officer, respondent no.3 herein on 10th June. The reply to the show cause notice which has already been issued to respondents no.4 and 5 be filed within 10 days from the date of their appearance. Thereafter the Sub-Divisional Officer shall consider the case of respondents no.4 and 5 in accordance with law and pass orders within 2 months from the date of appearance i.e. 10-6-2002.

(21) Counsel for the parties submit that powers have been conferred on the State authorities under the M.P. Panchayats (Appeal and Revision) Rules, 1995 to decide the matters like present, but the manner in which they are

exercised as reflected from the orders passed by the Sub-Divisional Officer, Additional Collector and the commissioner goes to show that proper training is required to be imparted to these authorities to perform such quasi-judicial functions in accordance with law. The order passed by the Sub-Divisional Officer under the provisions of section 40 of M.P.Panchayat Raj Adhiniyam 1993 not only takes away the valuable right of a person holding such office, but casts a stigma on the public life of a person. Therefore, exercise of such power by these authorities in hearing the matters of appeal and revision requires proper understanding of law keeping in mind principle of natural justice. Such training is required because ~~every~~ State has local body establishments of Panchayats, Municipal Corporation, Municipal Council and so on and so forth and the disputes like present may often arise and travel to such authorities. Therefore, by imparting such legal education, the authorities can justifiably perform the quasi judicial functions in accordance with law so that no prejudice would cause to any body in a democratic set up. It must be observed that as the public interest is involved in the matter, the financial constraints should not come in the way in giving such training.

(22) In view of what has been stated above, the petition is disposed of with the observations/directions aforesaid.

(23) A Copy of this order be sent to the Principal Secretary, General Administration Department and Chief Secretary to the State Government.

A certified copy of this order be also sent to all the parties concerned.

Sd/-
Fakhruddin
Judge

/Rao/